IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 07.06.2007

CORAM:

THE HONOURABLE MR.JUSTICE A.C.ARUMUGAPERUMAL ADITYAN

Crl.A.No.770 of 2000

Anandi .. Appellant/Complainant

vs.

1. Dharmalingam
2. Selvi
3. Kumar
4. Kasi
5. Dharuman
6. Palani
7. Deivayani
8. Elumalai
9. Alamelu
10. Chokkalingam .. Respondents/Accused 1 to 10

Prayer: This appeal is preferred under Section 378 of Cr Pc against the Judgment dated 23.06.2000, in C.C.No.10/1997 on the file of the Court of Judicial Magistrate No.II, Cheyyar.

For Appellant : Mr.P.Mani
For Respondents : Mr.G.Krishna Kumar

JUDGMENT

This appeal has been preferred against the judgment in C.C.No 10 of 1997 on the file of Judicial Magistrate No.2, Cheyyar.

2. A Private complaint was preferred by the appellant herein against the accused 1 to 10 under Section 200 of Cr.P.C. for an offence punishable under Sections 147,148,379 & 506(ii) of IPC. After recording the sworn statement of the complainant, the learned Judicial Magistrate No.II, Cheyyar had taken the complaint on file as C.C.No.10 of 1997. The accused appeared on summon before the learned Judicial Magistrate and copies under Section 207 Cr.P.C. were furnished to the accused, when the offence levelled against them was explained to them,they pleaded not guilty.

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3. On the side of the complainant, P.Ws.1 to 9 were examined. Exs P1 to P10 were exhibited and M.O.1 to M.O.18 were marked.

4. When the incriminating circumstances under Section 313 Cr.P.C.were put to the accused, they denied their complicity with the crime. After going through the available documents, the learned Judicial Magistrate No II, Cheyyar has come to an unassailable conclusion that the charges levelled against the accused were not proved and accordingly acquitted the accused from all the charges levelled against them which necessitated the complainant to prefer this appeal.

5. In an appeal against the acquittal, the main point to be gone into is whether the Judgment of the learned Judicial Magistrate is perverse in nature to warrant interference from this Court. Only on the ground that there are discrepancies in the complaint preferred by the complainant before the police, on the date of occurrence and the oral evidence let in by the complainant, the learned Judicial Magistrate has come to a conclusion that the occurrence would not have taken place as alleged by the complainant in her complainant before the police dated 13.12.1996.

6. It is the case of the complainant that on the date of occurrence, the accused came to her tea stall with deadly weapons like knife, crowbar and log and dismantled her tea stall and committed theft of M.O.1 to M.O.18. A perusal of the complaint preferred by the complainant dated 13.12.1996 before the police will go to show that there is absolutely no averment to the effect that the accused on the date of occurrence had trespassed into the tea stall of the complainant and dismantled the same with the help of deadly weapons like knife, crowbar and log. On the basis of the complaint preferred by P.W.2, the husband of P.W.1 before the police, the Inspector of Police visited the place of occurrence and had recovered M.O.1 to M.O.18 from the northern side of the vacant land near the rice mill belonging to one Ponnappa Mudaliar. Ex P9 is the Mahazar and Ex P10 is Form 95 through which M.O.1 to M.O.8 were sent to the Court. Ex P8 is the search list. This fact was spoken to by P.W.9, the then Inspector of Police, TC Police Station. P.W.1 would admit in her chief examination itself that the land in which her tea stall is situate belongs to the Government and that she took the tea stall on lease from one Selvi and subsequently the Government have assigned patta in favour of Selvi, who is A2 in this case.

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7. It is further admitted by P.W.1 that a Civil Suit is pending between the accused and her husband P.W.2. P.W.2 to P.W.6 are close relations of P.W.1. Admittedly, no one was injured in the occurrence. No weapon was also recovered from the accused and the allegations that the accused have committed theft of M.O.1 to M.O.18 from her tea stall was also not proved is also seen from the evidence by P.W.9, the Inspector of Police. Only under such circumstances, the learned Judicial Magistrate has come to a conclusion that the charge levelled against the accused was not proved beyond any reasonable doubt to warrant conviction.

8. Under such circumstances, I find no reason to interfere with the well considered judgment of the trial Court, which does not suffer from any illegality or infirmity.

9. In the result, the appeal is dismissed confirming the Judgment in C.C.No.10 of 1997 dated 23.6.2000 on the file of Judicial Magistrate No.II, Cheyyar.

sg

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To,

1.The Judicial Magistrate No.2,
Cheyyar.

2. -do-through the Chief Judicial Magistrate
Thiruvannamalai.

+ one cc to Mr. P.G. Padmanabhan, Advocate sr no. 33004

jrg(Co)
nm(21.06.07)

Crl.A.No 770 of 2000

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